

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MAX REED, II,

Plaintiff,

v.

NEVADA DEPARTMENT OF  
CORRECTIONS, et al.,

Defendants.

Case No. 3:14-cv-00313-MMD-VPC

ORDER

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections ("NDOC"), has submitted a motion requesting leave to file a first amended complaint, a proposed amended complaint, and a motion for reconsideration. (Dkt. no. 26, 26-1, 27.) In a previous order, this Court granted Plaintiff's application to proceed *in forma pauperis* and served a copy of Plaintiff's original complaint upon the Office of the Attorney General. Defendants have not responded to the original complaint. The Court now screens Plaintiff's amended civil rights complaint pursuant to 28 U.S.C. § 1915A.

**I. SCREENING STANDARD**

Federal courts must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1),(2). *Pro se* pleadings, however,

1 must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th  
2 Cir. 1990). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential  
3 elements: (1) the violation of a right secured by the Constitution or laws of the United  
4 States, and (2) that the alleged violation was committed by a person acting under color  
5 of state law. See *West v. Atkins*, 487 U.S. 42, 48 (1988).

6 In addition to the screening requirements under § 1915A, pursuant to the Prison  
7 Litigation Reform Act (PLRA), a federal court must dismiss a prisoner's claim, if "the  
8 allegation of poverty is untrue," or if the action "is frivolous or malicious, fails to state a  
9 claim on which relief may be granted, or seeks monetary relief against a defendant who  
10 is immune from such relief." 28 U.S.C. § 1915(e)(2). Dismissal of a complaint for failure  
11 to state a claim upon which relief can be granted is provided for in Federal Rule of Civil  
12 Procedure 12(b)(6), and the court applies the same standard under § 1915 when  
13 reviewing the adequacy of a complaint or an amended complaint. When a court  
14 dismisses a complaint under § 1915(e), the plaintiff should be given leave to amend the  
15 complaint with directions as to curing its deficiencies, unless it is clear from the face of  
16 the complaint that the deficiencies could not be cured by amendment. See *Cato v.*  
17 *United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

18 Review under Rule 12(b)(6) is essentially a ruling on a question of law. See  
19 *Chappel v. Lab. Corp. of America*, 232 F.3d 719, 723 (9th Cir. 2000). Dismissal for  
20 failure to state a claim is proper only if it is clear that the plaintiff cannot prove any set of  
21 facts in support of the claim that would entitle him or her to relief. See *Morley v. Walker*,  
22 175 F.3d 756, 759 (9th Cir. 1999). In making this determination, the court takes as true  
23 all allegations of material fact stated in the complaint, and the court construes them in  
24 the light most favorable to the plaintiff. See *Warshaw v. Xoma Corp.*, 74 F.3d 955, 957  
25 (9th Cir. 1996). Allegations of a *pro se* complainant are held to less stringent standards  
26 than formal pleadings drafted by lawyers. See *Hughes v. Rowe*, 449 U.S. 5, 9 (1980).  
27 While the standard under Rule 12(b)(6) does not require detailed factual allegations, a  
28 plaintiff must provide more than mere labels and conclusions. *Bell Atlantic Corp. v.*

1 *Twombly*, 550 U.S. 544, 555 (2007). A formulaic recitation of the elements of a cause of  
 2 action is insufficient. *Id.*

3 Additionally, a reviewing court should “begin by identifying pleadings [allegations]  
 4 that, because they are no more than mere conclusions, are not entitled to the  
 5 assumption of truth.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). “While legal  
 6 conclusions can provide the framework of a complaint, they must be supported with  
 7 factual allegations.” *Id.* “When there are well-pleaded factual allegations, a court should  
 8 assume their veracity and then determine whether they plausibly give rise to an  
 9 entitlement to relief.” *Id.* “Determining whether a complaint states a plausible claim for  
 10 relief . . . [is] a context-specific task that requires the reviewing court to draw on its  
 11 judicial experience and common sense.” *Id.*

12 Finally, all or part of a complaint filed by a prisoner may therefore be dismissed  
 13 *sua sponte* if the prisoner’s claims lack an arguable basis either in law or in fact. This  
 14 includes claims based on legal conclusions that are untenable (e.g., claims against  
 15 defendants who are immune from suit or claims of infringement of a legal interest which  
 16 clearly does not exist), as well as claims based on fanciful factual allegations (e.g.,  
 17 fantastic or delusional scenarios). *See Neitzke v. Williams*, 490 U.S. 319, 327-28  
 18 (1989); *see also McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

## 19 **II. SCREENING OF AMENDED COMPLAINT<sup>1</sup>**

20 In the amended complaint, Plaintiff sues multiple defendants for events that took  
 21 place while Plaintiff was incarcerated at Ely State Prison (“ESP”) and Northern Nevada  
 22 Correctional Center (“NNCC”). (Dkt. no. 26-1 at 1, 6.) Plaintiff sues Defendants NDOC  
 23 Director James Cox, ESP Warden Renee Baker, ESP Associate Warden Adam  
 24 Watson, ESP Associate Warden Mike Byrnes, ESP Caseworker Travis, ESP  
 25 Correctional Officer G. Luce, ESP Caseworker Healer, ESP Accounting Staff Isbah,  
 26 ESP Correctional Officer Wagner, NNCC Associate Warden Lisa Walsh, NNCC

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 28 <sup>1</sup>The Court grants Plaintiff’s motion to file an amended complaint. (Dkt. no. 26.)

1 Correctional Officer Webb, NNCC Correctional Officer Kraskey, NNCC Correctional  
2 Officer Wilson, OMD Staff Rex Reed, and John Does. (*Id.* at 2-8.) Plaintiff alleges six  
3 counts and seeks monetary damages, injunctive relief, and declaratory relief. (*Id.* at 25,  
4 33.)

5 **A. Count I**

6 In Count I, Plaintiff alleges the following: Cox, Baker, Byrnes, Watson, Travis,  
7 and Healer violated Plaintiff's right to access the courts because they have failed to  
8 respond to Plaintiff's grievances and to court orders demanding Plaintiff's access to his  
9 "media" discovery evidence, i.e. DVDs, VHS tapes, CD-ROMs, and cassettes. (Dkt. no.  
10 26-1 at 10.) Plaintiff's inability to access his evidence prevented him from attacking his  
11 conviction on direct appeal as a *pro se* litigant because he could not support his  
12 grounds. (*Id.*) Plaintiff was prejudiced because he could not review his transcripts on the  
13 disc his appointed appeal counsel provided him. (*Id.*) ESP staff also confiscated three of  
14 Plaintiff's legal boxes which contained hard copies of Plaintiff's transcripts and his work  
15 product from his criminal trial and civil case no. 3:11-cv-66-HDM-WGC. (*Id.*) These  
16 actions together completely inhibited Plaintiff's ability to present, litigate, challenge/  
17 attack his conviction on direct appeal, post-conviction writ of habeas corpus, and his  
18 civil case. (*Id.*)

19 Cox knew about Plaintiff's media files as early as June 2011. (*Id.* at 11.) Baker  
20 knew that Plaintiff had no access to review or prepare his discovery and failed to correct  
21 this error. (*Id.*) Baker arbitrarily gave some inmates access to laptops for the purpose of  
22 reviewing their media evidence and had authorized those inmates to use the single  
23 holding cubes with the supervision of CERT officers. (*Id.*) However, since December  
24 2012, Baker has denied Plaintiff access to his evidence. (*Id.*) Byrnes knew about  
25 Plaintiff's inability to access his evidence and failed to correct the violation. (*Id.*) Watson,  
26 Travis, and Healer all knew about Plaintiff's need to access his evidence. (*Id.* at 12.)

27 On February 6, 2014, Luce confiscated four of Plaintiff's legal boxes which  
28 contained transcripts and work product needed to litigate Plaintiff's direct appeal, post-

1 conviction petition, and civil rights appeal. (*Id.*) Plaintiff's legal boxes remain  
2 confiscated. (*Id.*) Wagner was present when Luce confiscated Plaintiff's materials. (*Id.*)  
3 Plaintiff alleges First, Sixth, and Fourteenth Amendment violations. (*Id.* at 9.)

4 The Court interprets this count as a claim for denial of access to the courts.  
5 Prisoners have a constitutional right of access to the courts. See *Lewis v. Casey*, 518  
6 U.S. 343, 346 (1996). This right "requires prison authorities to assist inmates in the  
7 preparation and filing of meaningful legal papers by providing prisoners with adequate  
8 law libraries or adequate assistance from persons trained in the law." *Bounds v. Smith*,  
9 430 U.S. 817, 828 (1977). This right, however, "guarantees no particular methodology  
10 but rather the conferral of a capability — the capability of bringing contemplated  
11 challenges to sentences or conditions of confinement before the courts." *Lewis*, 518  
12 U.S. at 356. It is this "capability, rather than the capability of turning pages in a law  
13 library, that is the touchstone" of the right of access to the courts. *Id.* at 356-57.

14 To establish a violation of the right of access to the courts, a prisoner must  
15 establish that he or she has suffered an actual injury, a jurisdictional requirement that  
16 flows from the standing doctrine and may not be waived. *Id.* at 349. An "actual injury" is  
17 "actual prejudice with respect to contemplated or existing litigation, such as the inability  
18 to meet a filing deadline or to present a claim." *Id.* at 348. Delays in providing legal  
19 materials or assistance that result in actual injury are "not of constitutional significance"  
20 if "they are the product of prison regulations reasonably related to legitimate penological  
21 interests." *Id.* at 362. The right of access to the courts is limited to non-frivolous direct  
22 criminal appeals, habeas corpus proceedings, and § 1983 actions. *Id.* at 353 n.3, 354-  
23 55.

24 The Court finds that Plaintiff states a colorable denial of access to the courts  
25 claim. Based on the allegations, the court ordered Defendants to permit Plaintiff access  
26 to his media discovery evidence but Defendants failed to do so. As a result, Plaintiff was  
27 unable to look at the evidence and was completely denied the ability to present, litigate,  
28 and challenge/attack his conviction on direct appeal, his post-conviction petition, and his

1 civil rights case. Additionally, Defendants confiscated Plaintiff's legal materials which  
2 prevented him from litigating his direct appeal, post-conviction proceedings, and civil  
3 rights case. This claim shall proceed against Defendants Cox, Baker, Byrnes, Watson,  
4 Travis, Healer, Luce, and Wagner.

5 **B. Count II**

6 In Count II, Plaintiff alleges the following: Plaintiff filed a civil rights lawsuit  
7 against the Washoe County Sheriff's Department in case no. 3:11-cv-66-HDM-WGC.  
8 (Dkt. no. 26-1 at 15.) On May 17, 2011, Plaintiff arrived at NNCC to serve a two to six  
9 year sentence. (*Id.*) Since that time, Plaintiff has been held "illegally" in administrative  
10 segregation in closed custody his entire time with the NDOC. (*Id.*) Cox, Walsh, and  
11 Watson failed to respond to Plaintiff's grievances and have provided Plaintiff with  
12 inadequate access to the courts by failing to provide Plaintiff with direct physical access  
13 to a law library. (*Id.*) Walsh systematically denied all of Plaintiff's grievances. (*Id.*)  
14 Defendants locked Plaintiff up in closed custody for 23 hours per day and impeded  
15 Plaintiff's ability to litigate his civil rights case. (*Id.*) NNCC employs a paging system that  
16 requires Plaintiff to use exact citations in order to receive legal materials. (*Id.*) NNCC  
17 offers inadequate and limited assistance from untrained inmate law clerks who only stop  
18 at Plaintiff's cell to pick up legal request forms. (*Id.*) These inmate law clerks overrode  
19 Plaintiff's attempts to conduct his own litigation because they told Plaintiff that they  
20 knew what they were doing. (*Id.* at 16.) The paging system only permits inmates to  
21 check out ten items. (*Id.*) This system forced Plaintiff to choose between litigating his  
22 pending criminal case or litigating his civil rights case. (*Id.*) Plaintiff chose to litigate his  
23 criminal case and was unable to litigate his civil rights case as a result. (*Id.*)

24 At ESP, Baker, Byrnes, Watson, Travis, and Healer all denied Plaintiff direct  
25 physical access to a law library and did not provide assistance from persons trained in  
26 the law. (*Id.* at 17.) ESP employs a paging system that requires inmates to use exact  
27 citations to receive legal material. (*Id.*) However, ESP provides no assistance or means  
28 on how to locate the necessary citations. (*Id.*) Due to the lack of adequate legal

1 assistance, Plaintiff was unable to amend his original complaint in his civil case that  
2 resulted in some of his counts being dismissed. (*Id.*) Plaintiff was forced to file an  
3 incomplete Ninth Circuit Court of Appeal brief that resulted in that court appointing him  
4 pro bono counsel. (*Id.* at 18.) ESP did not provide Plaintiff the ability to review discovery  
5 evidence in his civil rights case despite a court order. (*Id.*) As a result, Plaintiff was  
6 unable to use this evidence in his trial preparations. (*Id.* at 19.) Plaintiff alleges First,  
7 Sixth, and Fourteenth Amendment violations. (*Id.* at 14.)

8 The Court interprets these allegations as a claim for denial of access to the  
9 courts. The Court finds that Plaintiff states a colorable claim for denial of access to the  
10 courts. Based on the allegations, while at NNCC, Plaintiff had to use the paging system  
11 but was unable to acquire the items he needed because the inmate law clerks overrode  
12 his legal requests. Additionally, while at NNCC, the paging system forced Plaintiff to  
13 choose between litigating his criminal case and his civil rights case because of the  
14 limited number of resources Plaintiff was able to check out during the specified time  
15 period. Based on the allegations, while at ESP, Plaintiff had to use the paging system  
16 but was unable to adequately obtain resources because he did not know exact citations  
17 and ESP did not have any trained inmate clerks to aid him. This claim shall proceed  
18 against Defendants Cox, Walsh, Watson, Baker, Byrnes, Watson, Travis, and Healer.

19 **C. Count III**

20 In Count III, Plaintiff alleges the following: Cox, Baker, Byrnes, Watson, Travis,  
21 and Healer all knew about Plaintiff's Sixth Amendment right to self-representation in  
22 both his criminal and civil cases. (Dkt. no. 26-1 at 21.) Plaintiff had been denied access  
23 to a laptop computer, DVD player, VHS tape player, and cassette player as a means to  
24 review his evidence during his direct appeal efforts. (*Id.*) Plaintiff could not present  
25 factual claims in his post-conviction petition because Defendants had denied him  
26 access to his transcripts. (*Id.*) Defendants had withheld Plaintiff's discs from him even  
27 though a judge had ordered ESP to send them to Plaintiff. (*Id.* at 22.) Defendants told

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1 Plaintiff to hire private counsel if he wanted to review his media evidence. (*Id.*) Plaintiff  
2 alleges a Sixth Amendment violation. (*Id.* at 21.)

3 In *Faretta v. California*, 422 U.S. 806 (1975), the Supreme Court held that a  
4 criminal defendant has the right under the Sixth Amendment to reject court-appointed  
5 counsel and conduct his own defense. *Id.* at 832. “An incarcerated defendant may not  
6 meaningfully exercise his right to represent himself without access to law books,  
7 witnesses, or other tools to prepare a defense.” *Milton v. Morris*, 767 F.2d 1443, 1446  
8 (9th Cir. 1985).

9 The Court finds that Plaintiff states a colorable claim for a violation of his Sixth  
10 Amendment right to self-representation as to his criminal case only. Based on the  
11 allegations, prison officials denied Plaintiff the ability to review the evidence in his  
12 criminal case. The Court dismisses Plaintiff’s Sixth Amendment claim with respect to his  
13 civil cases with prejudice because “the Sixth Amendment identifies the basic rights that  
14 the accused shall enjoy in ‘all criminal prosecutions.’” *Martinez v. Court of Appeal of*  
15 *California, Fourth Appellate Dist.*, 528 U.S. 152, 159-60 (2000). As such, the Sixth  
16 Amendment does not apply to civil cases. This claim shall proceed in part against  
17 Defendants Cox, Baker, Byrnes, Watson, Travis, and Healer.

#### 18 **D. Count IV**

19 In Count IV, Plaintiff alleges the following: From January 1, 2013, through  
20 January 5, 2013, ESP staff made two unauthorized deductions from Plaintiff’s inmate  
21 trust account which totaled \$345.36. (Dkt. no. 26-1 at 23.) The prison staff told Plaintiff  
22 that his money was being taken in accordance to his prison wages earned. (*Id.*)  
23 However, while in NDOC custody, Plaintiff has been denied the opportunity to earn a  
24 prison wage. (*Id.*) The deducted money had been sent to Plaintiff from an outside  
25 source to fund Plaintiff’s litigation efforts. (*Id.*) Isbah, Wiess, and Baker knew about  
26 these withdrawals. (*Id.*) Plaintiff never received any prior notice, pre-confiscation  
27 hearing, or an opportunity to address this incident. (*Id.*) Plaintiff alleges Fifth and  
28 Fourteenth Amendment due process violations. (*Id.*)



1 While an authorized, intentional deprivation of property is actionable under the  
2 Due Process Clause, neither a negligent nor intentional unauthorized deprivation of  
3 property by a prison official is actionable if a meaningful post-deprivation remedy is  
4 available for the loss. *Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *Quick v. Jones*, 754  
5 F.2d 1521, 1524 (9th Cir. 1985). An authorized deprivation is one carried out pursuant  
6 to established state procedures, regulations, or statutes. *Logan v. Zimmerman Brush*  
7 *Co.*, 455 U.S. 422, 436 (1982); *Piatt v. MacDougall*, 773 F.2d 1032, 1036 (9th Cir.  
8 1985); *see also Knudson v. City of Ellensburg*, 832 F.2d 1142, 1149 (9th Cir. 1987).

9 The Court finds that Plaintiff states a colorable due process claim. Although  
10 Plaintiff states that deductions were “unauthorized,” the amended complaint is clear that  
11 Plaintiff means that he did not authorize the deductions. However, based on the  
12 allegations, it appears that prison accounting officials did “authorize” the taking under  
13 their regulations in error. As such, this claim shall proceed against Defendants Isbah,  
14 Wiess, and Baker.

#### 15 **E. Count V**

16 In Count V, Plaintiff alleges the following: On December 3, 2013, John Doe #1  
17 violated Plaintiff’s Fourth Amendment right when he packed Plaintiff’s property without  
18 Plaintiff present. (Dkt. no. 26-1 at 24.) John Doe #1 lost, destroyed, or did not pack the  
19 photos of Plaintiff’s deceased father and grandmother. (*Id.*) Plaintiff kept their pictures in  
20 an envelope with his name and number on the front of the envelope. (*Id.*) Plaintiff  
21 believes that John Doe’s actions were intentional. (*Id.*) When Plaintiff received his  
22 property on December 10, 2013, several of Plaintiff’s boxes had been completely  
23 destroyed. (*Id.*)

24 The Court interprets this claim as a due process claim. The Court finds that  
25 Plaintiff states a colorable due process claim to the extent that Plaintiff is alleging that

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1 John Doe conducted an authorized, intentional deprivation of property. This claim shall  
2 proceed against Defendant John Doe.<sup>2</sup>

3 **F. Count VI**

4 In Count VI, Plaintiff alleges the following: On August 3, 2010, Plaintiff was  
5 housed at the Washoe County Detention Facility to face criminal charges. (Dkt. no. 26-1  
6 at 25.) On December 7, 2010, a court granted Plaintiff the Sixth Amendment right to  
7 self-representation. (*Id.*) On May 17, 2011, Plaintiff was transferred to NNCC to serve a  
8 two to six year sentence for an unrelated charge and was placed in closed custody  
9 during his entire stay at NNCC. (*Id.*) Prison officials denied Plaintiff the means to review  
10 and prepare his discovery for use in his efforts for self-representation. (*Id.*) Prison  
11 officials confiscated his cassette players needed to review discovery evidence and his  
12 cassette tapes. (*Id.* at 26.) Webb, Kraskey, and Wilson had confiscated his cassette  
13 player and cassette tapes with evidence on them. (*Id.*) John Does had confiscated  
14 Plaintiff's CDs of discovery evidence. (*Id.* at 27.) Walsh and Watson systematically  
15 denied all of Plaintiff's grievances on this issue. (*Id.*) Cox, Palmer, Walsh, Watson,  
16 Kraskey, Wilson, Rex Reed, and John Does all knew about these violations. (*Id.* at 28-  
17 29.)

18 The Court interprets this claim as a denial of Plaintiff's Sixth Amendment right to  
19 self-representation in his criminal case. Based on the allegations, Defendants  
20 confiscated all evidence and means for Plaintiff to review evidence in his case. As such,  
21 this claim shall proceed against Defendants Cox, Palmer, Walsh, Watson, Webb,  
22 Kraskey, Wilson, Rex Reed, and John Does.

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25 <sup>2</sup>As a general rule, the use of "Doe" pleading to identify a defendant is not  
26 favored. *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980). However, the Court  
27 recognizes that there are situations "where the identity of alleged defendants will not be  
28 known prior to the filing of a complaint." *Id.* "In such circumstances, the plaintiff should  
be given an opportunity through discovery to identify the unknown defendants, unless it  
is clear that discovery would not uncover the identities, or that the complaint would be  
dismissed on other grounds." *Id.*

1     **III.     MOTION FOR RECONSIDERATION**

2             On October 20, 2014, this Court denied Plaintiff's motion for injunctive relief  
3     because Plaintiff could not show irreparable harm. (Dkt. no. 21 at 2.) The Court found  
4     that Plaintiff was alleging that he needed to be transferred to NNCC in order to provide  
5     evidence for that motion and for his motion for summary judgment. (*Id.*) The Court noted  
6     that the case was in a 90-day stay and that Plaintiff had no reason to provide evidence  
7     to the Court at that time. (*Id.*) Additionally, the Court found that if Plaintiff was alleging  
8     that he could not file a motion for summary judgment in another case, Plaintiff should  
9     file a motion for relief in that other case. (*Id.* at 2 n.1.)

10            Plaintiff now files a motion for reconsideration and states that he wishes to file a  
11     motion for summary judgment in this current case and that he would suffer irreparable  
12     harm if he were not transferred to NNCC due to the denial of access to the courts. (Dkt.  
13     no. 27 at 1.)

14            A motion to reconsider must set forth "some valid reason why the court should  
15     reconsider its prior decision" and set "forth facts or law of a strongly convincing nature to  
16     persuade the court to reverse its prior decision." *Frasure v. United States*, 256  
17     F.Supp.2d 1180, 1183 (D. Nev. 2003). Reconsideration is appropriate if this Court "(1) is  
18     presented with newly discovered evidence, (2) committed clear error or the initial  
19     decision was manifestly unjust, or (3) if there is an intervening change in controlling  
20     law." *Sch. Dist. No. 1J v. Acands, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). "A motion for  
21     reconsideration is not an avenue to re-litigate the same issues and arguments upon  
22     which the court already has ruled." *Brown v. Kinross Gold, U.S.A.*, 378 F.Supp.2d 1280,  
23     1288 (D. Nev. 2005).

24            The Court denies Plaintiff's motion for reconsideration. Plaintiff has not  
25     demonstrated that the initial decision was manifestly unjust at the time the Court signed  
26     it in light of the 90-day stay.

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1 **IV. CONCLUSION**

2 For the foregoing reasons, it is ordered that the motion to amend complaint (dkt.  
3 no. 26) is granted.

4 It is further ordered that the Clerk of the Court shall file the amended complaint  
5 (dkt. no. 26-1).

6 It is further ordered that Count I, alleging denial of access to the courts, shall  
7 proceed against Defendants Cox, Baker, Byrnes, Watson, Travis, Healer, Luce, and  
8 Wagner.

9 It is further ordered that Count II, alleging denial of access to the courts, shall  
10 proceed against Defendants Cox, Walsh, Watson, Baker, Byrnes, Watson, Travis, and  
11 Healer.

12 It is further ordered that Count III, alleging denial of the right to self-  
13 representation, shall proceed against Defendants Cox, Baker, Byrnes, Watson, Travis,  
14 and Healer with respect to Plaintiff's criminal case only.

15 It is further ordered that Count IV, alleging due process, shall proceed against  
16 Defendants Isbah, Wiess, and Baker.

17 It is further ordered that Count V, alleging due process, shall proceed against  
18 Defendant John Doe.

19 It is further ordered that Count VI, alleging denial of the right to self-  
20 representation, shall proceed against Defendants Cox, Palmer, Walsh, Watson, Webb,  
21 Kraskey, Wilson, Rex Reed, and John Does.

22 It is further ordered that the motion for reconsideration (dkt. no. 27) is denied.

23 It is further ordered that the Clerk of the Court shall electronically serve a copy of  
24 this order and a copy of Plaintiff's amended complaint (dkt. no. 26-1) on the Office of the  
25 Attorney General of the State of Nevada, attention Kat Howe.

26 It is further ordered that subject to the findings of this screening order, within  
27 twenty-one (21) days of the date of entry of this order, the Attorney General's Office  
28 shall file a notice advising the Court and Plaintiff of: (a) the names of the defendants for


1 whom it accepts service; (b) the names of the defendants for whom it does not accept  
2 service, and (c) the names of the defendants for whom it is filing last-known-address  
3 information under seal. As to any of the named defendants for which the Attorney  
4 General's Office cannot accept service, the Office shall file, *under seal*, the last known  
5 address(es) of those defendant(s) for whom it has such information.

6 It is further ordered that if service cannot be accepted for any of the named  
7 defendant(s), Plaintiff shall file a motion identifying the unserved defendant(s),  
8 requesting issuance of a summons, and specifying a full name and address for the  
9 defendant(s). For the defendant(s) as to which the Attorney General has not provided  
10 last-known-address information, Plaintiff shall provide the full name and address for the  
11 defendant(s).

12 It is further ordered that if the Attorney General accepts service of process for  
13 any named defendant(s), such defendant(s) shall file and serve an answer or other  
14 response to the amended complaint within sixty (60) days from the date of this order.

15 It is further ordered that, henceforth, Plaintiff shall serve upon defendant(s) or, if  
16 an appearance has been entered by counsel, upon their attorney(s), a copy of every  
17 pleading, motion or other document submitted for consideration by the Court. Plaintiff  
18 shall include with the original paper submitted for filing a certificate stating the date that  
19 a true and correct copy of the document was mailed to the defendants or counsel for the  
20 defendants. If counsel has entered a notice of appearance, Plaintiff shall direct service  
21 to the individual attorney named in the notice of appearance, at the address stated  
22 therein. The Court may disregard any paper received by a district judge or magistrate  
23 judge which has not been filed with the Clerk of the Court, and any paper received by a  
24 district judge, magistrate judge, or the Clerk of the Court which fails to include a  
25 certificate showing proper service.

26 DATED THIS 3<sup>rd</sup> day of December 2014.

27   
28 MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE